

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

VALERIE GARCIA LUCERO,

Plaintiff,

vs.

No. CIV 03-1128 JB/DJS

OFFICER JOSE MARTINEZ, Individually
and in his capacity as a Patrolman with the
Town of Taos Police Department,
NEIL CURRAN, Individually and in his
capacity as Chief of the Town of Taos
Police Department, and the TOWN OF TAOS,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Defendants' Motion to Continue April 10, 2006 Trial Setting, filed February 15, 2006 (Doc. 45). The primary issue is whether there is any reason the Court should not vacate this trial setting given that the Defendants' counsel will be in trial for the two weeks immediately preceding this trial. Because the Defendants have shown good grounds for the Court to vacate the setting in this case, the Court will grant the Defendants' motion.

PROCEDURAL BACKGROUND

On July 8, 2005, the Court issued an Order Setting Case Deadlines, and identified April 10, 2006 as the trial date. See Order Setting Case Deadlines at 1 (Doc. 27). On December 15, 2005, the Court issued an order allowing Lucero's attorney to withdraw as Plaintiff's counsel. See Notice and Order Regarding Withdrawal of Counsel (Doc. 44). Lucero is currently pro se.

Counsel for the Defendants represents that he is on a firm setting for a jury trial commencing March 27, 2006 in Sharon Roberts v. City of Truth or Consequences, Cause No. D-0721-CV-2002-

00033 before the Honorable Kevin R. Sweazea, District Judge, in the Seventh Judicial District, State of New Mexico. See Motion to Continue April 10, 2006 Trial Setting ¶ 3, at 1. The Defendants' counsel represents that the Roberts trial is anticipated to last approximately two weeks. See id. He also states that the Roberts case was filed four years ago and that the possibility of settlement before trial is remote. See id.

The Defendants represent that their attorney contacted Lucero by telephone at the number on file with the Court, and she advised the Defendants' counsel that Adam Baker represented her. See id. ¶ 5, at 2. The Defendants state that, upon contacting Mr. Baker's office, they were advised that Mr. Baker did not represent Lucero. See id. The Defendants state that their counsel again contacted Lucero through the telephone number on file with the Court, and Lucero advised via a voice message that the Defendants' counsel should quit calling her at that number, should direct all inquiries to her counsel, Mr. Baker, and should mail her documents, which she would then forward to her attorney, Mr. Baker. See id.

The Defendants move for a continuance of the April 10, 2006 trial setting. See id. at 1. The Defendants served Lucero and Mr. Baker. See Motion to Continue April 10, 2006 Trial Setting, Certificate of Service at 2. Neither Lucero nor any attorney representing her has responded to the motion.

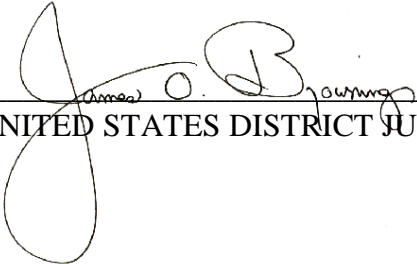
ANALYSIS

The Defendants' counsel represents that he cannot adequately prepare for this case with the Roberts trial expected to last through April 7, 2006. See Motion to Continue April 10, 2006 Trial Setting ¶ 3, at 1. That is understandable and reasonable. As it appears that Lucero is currently pro se, it may be that she may require additional time in which to secure counsel before proceeding to

trial.

In any case, the Defendants have shown good grounds for the Court to vacate the trial setting. The Court will vacate and reset the trial setting of April 10, 2006. The Court will issue a scheduling order in accordance with the new setting.

IT IS ORDERED that the Defendants' Motion to Continue April 10, 2006 Trial Setting is granted.



UNITED STATES DISTRICT JUDGE

Counsel and Parties:

Valerie Garcia Lucero
Ranchos de Taos, New Mexico

Pro Se Plaintiff

James P. Sullivan
Brennan & Sullivan, P.A.
Santa Fe, New Mexico

Attorneys for the Defendants